

Executive Summary – Enforcement Matter – Case No. 44901
P. M. Petroleum Inc dba Hamilton Market
RN105027791
Docket No. 2012-1812-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Hamilton Market, 18901 Hamilton Pool Road, Travis County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 28, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$3,022

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$122

Total Due to General Revenue: \$2,900

Payment Plan: 29 payments of \$100 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44901
P. M. Petroleum Inc dba Hamilton Market
RN105027791
Docket No. 2012-1812-PWS-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: July 30, 2012
Date(s) of NOE(s): August 14, 2012

Violation Information

1. Failed to collect routine distribution water samples for coliform analysis [30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d)].
2. Failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample [30 TEX. ADMIN. CODE § 290.109(c)(4)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 10 days, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, one groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
- b. Within 195 days, submit written certification demonstrating compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 44901
P. M. Petroleum Inc dba Hamilton Market
RN105027791
Docket No. 2012-1812-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2576; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Abel Suah, Owner, Hamilton Market, 18901 Hamilton Pool Road,
Dripping Springs, Texas 78620

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned PCW

27-Aug-2012
3-Sep-2012

Screening

31-Aug-2012

EPA Due

31-Dec-2011

RESPONDENT/FACILITY INFORMATION

Respondent P. M. Petroleum Inc dba Hamilton Market
Reg. Ent. Ref. No. RN105027791
Facility/Site Region 11-Austin **Major/Minor Source** Minor

CASE INFORMATION

Enf./Case ID No. 44901
Docket No. 2012-1812-PWS-E
Media Program(s) Public Water Supply
Multi-Media
No. of Violations 1
Order Type Findings
Government/Non-Profit No
Enf. Coordinator Abigail Lindsey
EC's Team Enforcement Team 2

Admin. Penalty \$ Limit Minimum \$50 **Maximum** \$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$750

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 40.0% Enhancement **Subtotals 2, 3, & 7** \$300

Notes Enhancement for eight NOV's with same/similar violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$79
Approx. Cost of Compliance \$75

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$1,050

OTHER FACTORS AS JUSTICE MAY REQUIRE

7.5%

Adjustment \$79

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided costs of compliance for Violation No. 1.

Final Penalty Amount \$1,129

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,129

DEFERRAL

0.0%

Reduction Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$1,129

Screening Date 31-Aug-2012

Docket No. 2012-1812-PWS-E

PCW

Respondent P. M. Petroleum Inc dba Hamilton Market

Policy Revision 2 (September 2002)

Case ID No. 44901

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105027791

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for eight NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 31-Aug-2012

Docket No. 2012-1812-PWS-E

PCW

Respondent P. M. Petroleum Inc dba Hamilton Market

Policy Revision 2 (September 2002)

Case ID No. 44901

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105027791

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description Failed to collect routine distribution water samples for coliform analysis for the following months: June, July and August 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to perform routine coliform monitoring could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 3

92 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$750

Three monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$79

Violation Final Penalty Total \$1,129

This violation Final Assessed Penalty (adjusted for limits) \$1,129

Economic Benefit Worksheet

Respondent P. M. Petroleum Inc dba Hamilton Market

Case ID No. 44901

Reg. Ent. Reference No. RN105027791

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$75	1-Jun-2011	31-Aug-2011	1.17	\$4	\$75	\$79
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25 x 3 samples) to conduct routine coliform sampling, calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$75

TOTAL

\$79



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ
DATES

Assigned
PCW

27-Aug-2012
3-Sep-2012

Screening

31-Aug-2012

EPA Due

31-Dec-2011

RESPONDENT/FACILITY INFORMATION

Respondent
Reg. Ent. Ref. No.
Facility/Site Region

P. M. Petroleum Inc dba Hamilton Market
RN105027791
11-Austin

Major/Minor Source

Minor

CASE INFORMATION

Enf./Case ID No.
Docket No.
Media Program(s)
Multi-Media

44901
2012-1812-PWS-E
Public Water Supply

No. of Violations

2

Order Type

Findings

Government/Non-Profit

No

Enf. Coordinator

Abigail Lindsey

EC's Team

Enforcement Team 2

Admin. Penalty \$ Limit Minimum

\$50

Maximum

\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1

\$1,200

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

40.0%

Enhancement

Subtotals 2, 3, & 7

\$480

Notes

Enhancement for eight NOVs with same/similar violations.

Culpability

No

0.0%

Enhancement

Subtotal 4

\$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5

\$0

Economic Benefit

Total EB Amounts

\$213

Approx. Cost of Compliance

\$200

0.0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6

\$0

SUM OF SUBTOTALS 1-7

Final Subtotal

\$1,680

OTHER FACTORS AS JUSTICE MAY REQUIRE

12.7%

Adjustment

\$213

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Enhancement to capture the avoided costs of compliance for Violation Nos. 1 and 2.

Final Penalty Amount

\$1,893

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$1,893

DEFERRAL

0.0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$1,893

Screening Date 31-Aug-2012

Docket No. 2012-1812-PWS-E

PCW

Respondent P. M. Petroleum Inc dba Hamilton Market

Policy Revision 3 (September 2011)

Case ID No. 44901

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105027791

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	8	40%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for eight NOVs with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date 31-Aug-2012

Docket No. 2012-1812-PWS-E

PCW

Respondent P. M. Petroleum Inc dba Hamilton Market

Policy Revision 3 (September 2011)

Case ID No. 44901

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105027791

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.109(c)(2)(A)(i) and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect routine distribution water samples for coliform analysis for the following months: September 2011 through March 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to perform routine coliform monitoring could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 7

213 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,050

Seven monthly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,050

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$188

Violation Final Penalty Total \$1,656

This violation Final Assessed Penalty (adjusted for limits) \$1,656

Economic Benefit Worksheet

Respondent P. M. Petroleum Inc dba Hamilton Market

Case ID No. 44901

Reg. Ent. Reference No. RN105027791

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	1-Sep-2011	31-Mar-2012	1.50	\$13	\$175	\$188
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount (\$25 x 7 samples) to conduct routine coliform sampling, calculated for the months sampling was not conducted.

Approx. Cost of Compliance

\$175

TOTAL

\$188

Screening Date 31-Aug-2012

Docket No. 2012-1812-PWS-E

PCW

Respondent P. M. Petroleum Inc dba Hamilton Market

Policy Revision 3 (September 2011)

Case ID No. 44901

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN105027791

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(4)(B)

Violation Description

Failed to collect one raw groundwater source Escherichia coli sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample during the month of May 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect all triggered source monitoring samples could result in persons served by the Facility being exposed to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$237

This violation Final Assessed Penalty (adjusted for limits) \$237

Economic Benefit Worksheet

Respondent P. M. Petroleum Inc dba Hamilton Market

Case ID No. 44901

Reg. Ent. Reference No. RN105027791

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	2-May-2012	3-May-2012	0.00	\$0	\$25	\$25
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct triggered source monitoring of the drinking water (\$25 per sample), calculated for the 24-hour period after the coliform-positive result.

Approx. Cost of Compliance

\$25

TOTAL

\$25

Compliance History Report

Customer/Respondent/Owner-Operator: CN602940488 P. M. Petroleum Inc Classification: AVERAGE
Regulated Entity: RN105027791 Hamilton Market Classification:
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
Location: 18901 HAMILTON POOL ROAD, TRAVIS COUNTY, TEXAS
TCEQ Region:
Date Compliance History Prepared: August 29, 2012

Rating: 3.01
Site Rating:
2270370

Agency Decision Requiring Compliance History: Enforcement
Compliance Period: August 29, 2007 to August 29, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Abigail Lindsey Phone: (512) 239-2576

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A

- B. Any criminal convictions of the state of Texas and the federal government.
N/A

- C. Chronic excessive emissions events.
N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/17/2012	(1002622)
2	08/09/2012	(1023474)
3	08/09/2012	(1023750)
4	08/09/2012	(1023757)
5	08/09/2012	(1023758)
6	08/09/2012	(1023765)
7	08/09/2012	(1023775)
8	08/09/2012	(1023781)
9	08/09/2012	(1023783)
10	08/24/2012	(1023892)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	10/07/2011	(1023474)CN602940488
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
Description:	TCR Routine Monitoring Violation 08/2011 - Failure to collect any routine monitoring sample.	
Date:	11/17/2011	(1023750) CN602940488
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i) 30 TAC Chapter 290, SubChapter F 290.109(f)(5) 30 TAC Chapter 290, SubChapter F 290.109(f)(7)	
Description:	TCR Routine Monitoring Violation 09/2011 - Failure to collect any routine monitoring sample.	
Date:	02/29/2012	(1023758) CN602940488
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)	

30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 11/2011 - Failure to collect any routine monitoring sample.
 Date: **02/29/2012** (1023757) CN602940488
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 10/2011 - Failure to collect any routine monitoring sample.
 Date: **03/15/2012** (1023765) CN602940488
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 12/2011 - Failure to collect any routine monitoring sample.
 Date: **03/27/2012** (1023775) CN602940488
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 01/2012 - Failure to collect any routine monitoring sample.
 Date: **04/10/2012** (1023781) CN602940488
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 02/2012 - Failure to collect any routine monitoring sample.
 Date: **05/07/2012** (1023783) CN602940488
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(i)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine Monitoring Violation 03/2012 - Failure to collect any routine monitoring sample.

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
- N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
P. M. PETROLEUM INC DBA
HAMILTON MARKET
RN105027791**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-1812-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding P. M. Petroleum Inc dba Hamilton Market (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 18901 Hamilton Pool Road in Travis County, Texas (the "Facility") that has approximately three service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on July 30, 2012, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the following months: June 2011 through March 2012.
3. During a record review conducted on July 30, 2012, TCEQ staff documented that the Respondent did not collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample for the month of May 2012.
4. The Respondent received notice of the violations on August 22, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)(A)(i) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect one raw groundwater source *Escherichia coli* sample from the Facility's well within 24 hours of notification of a distribution total coliform-positive sample, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(4)(B).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Three Thousand Twenty-Two Dollars (\$3,022) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Twenty-Two Dollars (\$122) of the administrative penalty. The remaining amount of Two Thousand Nine Hundred Dollars (\$2,900) of the administrative penalty shall be payable in 29 monthly payments of One Hundred Dollars (\$100) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Three Thousand Twenty-Two Dollars (\$3,022) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: P. M. Petroleum Inc dba Hamilton Market, Docket No. 2012-1812-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order, begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples, one groundwater source *Escherichia coli* sample from each groundwater source in use at the time the distribution coliform-positive sample was collected, and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliant monitoring and reporting at the Facility.
 - b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis
For the Executive Director

2/18/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of P. M. Petroleum Inc dba Hamilton Market. I am authorized to agree to the attached Agreed Order on behalf of P. M. Petroleum Inc dba Hamilton Market, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, P. M. Petroleum Inc dba Hamilton Market waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

A. Sakh
Signature

10/22/12
Date

Abel Sakh
Name (Printed or typed)
Authorized Representative of
P. M. Petroleum Inc dba Hamilton Market

OWNER
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.